IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 791 OF 2003

M/s. Maini Associates .. petitioner.
v/s.
Mahindra Construction Co.Ltd. ...Respondents.

Mr. Mukesh Jain for the petitioner.

Mr. S..A.Diwan i/b. Ashwin Ankhad and Associates for the company.

CORAM: S.U. KAMDAR, J.

DATE : 16TH DECEMBER, 2004.

P.C. :

1. The present company petition is filed on the ground that there is an outstanding amount due and payable in the sum of Rs.29,86,813/- inrespect of the goods sold and delivered. The respondent has filed a reply and tendered a letter dated 18/6/2002 inter-alia forwarding two demand drafts of sum of Rs.9,00,000/- and Rs.5,97,753/- totalling to Rs.14,97,753/-. The said letter states that the said amount is tendered in full and final settlement of all the

claims in respect of the goods sold and delivered by the petitioner to the respondent company. It is not disputed before me that both the said demand drafts are received by the petitioner and are encashed. However, the learned counsel for the petitioner contended that though the demand drafts were received, the letter dated 18.6.2002 was not received. In my view, there is a serious bonafide dispute as to any alleged outstanding claim. Even the contention that the letter dated 18.6.2002 is not received will require to be tried. In view thereof the present petition is not maintainable. The petition is dismissed with no order as to costs.

SD/-

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